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 32 KING PHARMACEUTICALS RESEARCH
 33 AND DEVELOPMENT, INC.;
 34 and GENTRAC, INCORPORATED

35 **UNITED STATES DISTRICT COURT**
 36 **NORTHERN DISTRICT OF CALIFORNIA**
 37 **SAN JOSE DIVISION**

38 KING PHARMACEUTICALS, INC.;) Case No.: CV11-80017 MISC
 39 MONARCH PHARMACEUTICALS, INC.;)
 40 KING PHARMACEUTICALS RESEARCH) [U.S.D.C. Eastern District of Tennessee Case
 41 AND DEVELOPMENT, INC.; and) No.: 09-cv-00244]
 42 GENTRAC, INCORPORATED,)
 43) **STIPULATION AND [PROPOSED]**
 44 Plaintiffs,) **ORDER STRIKING CONFIDENTIAL**
 45 v.) **INFORMATION FROM DOCKET AND**
 46 ZYMOGENETICS, INC. and JOHN AND) **RE-SETTING HEARING ON MOTION**
 47 JANE DOES 1-50.) **TO COMPEL**
 48)
 49 _____

1 WHEREAS, an Agreed Protective Order exists in the underlying action entitled *King*
 2 *Pharmaceuticals, et al. v. ZymoGenetics, Inc., et al.*, U.S.D.C. Eastern District of Tennessee Case No.:
 3 09-cv-00244 (“the Action”), a true and correct copy of which is attached hereto as Exhibit A and
 4 incorporated by this reference as though set forth in full. Among other things, the Agree Protective
 5 Order provides at Paragraph 17 that, “Any third party producing documents or things or giving
 6 testimony in this litigation pursuant to a subpoena, notice or request may designate said documents,
 7 things, or testimony as “Confidential” or “Highly Confidential/Attorneys’ Eyes Only.”

8 WHEREAS, in Google’s production of records pursuant to the subpoena *duces tecum* issued in
 9 connection with the Action, it designated one or more documents as “Confidential and Proprietary –
 10 For Attorney’s Eyes Only,” including the document that is the subject matter of this Stipulation, as
 11 described more specifically below.

12 WHEREAS, the document in question was filed with the Court as Exhibit H to King’s Exhibits
 13 in Support of Combined Motions to Compel Production of Documents Pursuant to Subpeona *duces*
 14 *tecum* and to Show Cause (Docket Entry No. 4) in support of King’s pending combined motion to
 15 compel and to show cause, which motion is currently set for hearing on March 22, 2011 (“the
 16 Motion”).¹

17 WHEREAS, King contends that it inadvertently filed Exhibit H without first seeking an order
 18 to file it under seal.

19 WHEREAS, the parties hereto desire to preserve and protect Google’s claim of confidentiality
 20 by having Exhibit H stricken from the public record and destroyed pending a possible motion to re-file
 21 Exhibit H under seal pursuant to Civil Local Rules 7-11 and 79-5 and this Court’s General Order No.
 22 62.

23 WHEREAS, the parties hereto are meeting and conferring regarding the subject of the Motion,
 24 with the aim of informally resolving them prior to the hearing of the Motion, but believe that
 25 additional time would be conducive to completing such efforts.

26 WHEREAS, the parties reserve all rights with regard to this matter.

27 ¹ Because the Exhibits were an oversized document, none of the Exhibits, including Exhibit H, were made available to the
 28 public through the ECF system or PACER.

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2 NOW, THEREFORE, the undersigned parties to hereby stipulate and agree as follows:

3 1. The hearing of the Motion shall be continued by agreement of the parties from **March 22,**
4 **2011**, to **April 19, 2011**, commencing at **10:00 a.m.**, in Courtroom 2 of the Northern
5 District of California, San Jose Division, the Hon. Magistrate Judge Howard R. Lloyd,
6 presiding, with all other deadlines accordingly reset;

7 2. The parties hereto stipulate and agree to further meet and confer in an effort to informally
8 resolve this matter and avoid a hearing;

9 3. The parties hereto stipulate and agree that Exhibit H of King's Exhibits in Support of
10 Combined Motions to Compel Production of Documents Pursuant to Subpeona *Duces*
11 *Tecum* and to Show Cause (Docket 4) should be stricken from the record but that King may
12 re-file Exhibit H under seal at any time on or prior to March 29, 2011.

13 The foregoing is stipulated and agreed by:

14 Dated: February 22, 2011

CHIARELLI & MOLLICA LLP

15 By 
TERRY J. MOLLICA

16 Attorneys for Plaintiffs KING PHARMACEUTICALS,
17 INC., MONARCH PHARMACEUTICALS, INC., KING
18 PHARMACEUTICALS RESEARCH AND
19 DEVELOPMENT, INC. and GENTRAC,
20 INCORPORATED

21 Dated: February 22, 2011

22 WILSON SONSINI GOODRICH & ROSATI

23 By 
MICHAEL H. RUBIN, ESQ.

24 Attorneys for Defendants GOOGLE, Inc.

1 **IT IS SO ORDERED.**
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3 DATED: February 25, 2011
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6 Hon. Magistrate Judge Howard R. Lloyd
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